IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 938 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MANIBEN WD/O KAMJI VECHAT ASARI

Versus

NATUBHAI MANJIBHAI KHARADI

Appearance:

MR JV JAPEE for Petitioners No. 1-5

MRS VASAVDATTA BHATT for Respondent Nos

CORAM : MR.JUSTICE J.R.VORA

Date of decision: 20/12/2001

ORAL JUDGEMENT

1. Heard learned Advocate Mr. J.V. Japee for the petitioners and learned Advocate Mrs. Vasavdatta Bhatt for respondents.

2. In Motor Accident Claim Petition No. 733/1991, learned Motor Accidents Claims Tribunal, Sabarkantha, passed an award on 22nd April, 1998 and total amount of Rs. 2 lacs was awarded to 5 applicants. Out of which

applicants No. 2 to 5 were minor at that time while applicant No.1 was the mother of minor applicants No. 2 to 5. An application was moved before the learned Tribunal by the applicants on 23rd June, 2000 stating that applicants No. 2 and 3 - Rameshbhai Kamjibhai and Hakshibhai Kamjibhai, have attained majority and since they have no other source of income and they intended to purchase agricultural land for subsistence, the amount which is awarded to applicants No. 1, 2 and 3 and invested in Fixed Deposit Receipts be released to them. The learned Tribunal, Sabarkantha, vide its Order dated 17th of July, 2000, released an amount of Rs. 5,000/- each to the applicants No. 1, 2 and 3 out of the amount which was deposited in the Fixed Deposit Receipts in the Bank and hence this Revision Application against the above said order.

3. Normally, under revisional jurisdiction of this Court, such orders cannot be interfered with, but it appears from the record and from the submissions made that the applicants intended to purchase immovable property for the subsistence. Learned Advocate for the petitioners also submits that the agreement to purchase a land also has been executed. In this view of the matter, following order is passed in the interest of justice, revising the order impugned.

(i) Applicant No.1 Maniben, widow of Kamjibhai, shall be released the whole amount which is invested and was allotted to her share by the learned Tribunal. The amount as mentioned in the application comes to about Rs. 38,258/-. The Tribunal, therefore, is directed to release the whole amount, which is invested in Fixed Deposit Receipt in the name of applicant No.1 Maniben, widow of Kamjibhai.

(ii) 50% amount out of the amount invested in the Fixed Deposit Receipt in the name of applicant No.2 - Remeshbhai Kamjibhai and applicant No.3 Hakshibhai Kamjibhai, shall be released to each of the applicants No. 2 and 3 - Rameshbhai Kamjibhai and Hakshibhai Kamjibhai, respectively. The remaining 50% amount shall be again invested in the Fixed Deposit Receipts on the same terms and conditions. Therefore, the Tribunal is directed to release the amount to applicant No.2 Rameshbhai Kamjibhai and applicant No.3 Hakshibhai Kamjibhai, as aforesaid, i.e. 50% amount to each of the applicants No. 2 and 3 out of the amount invested in their names

respectively. The Tribunal shall also satisfy itself that applicants No. 2 and 3 have attained the majority and shall reinvest the remaining 50% amount again in the Fixed Deposit Receipts on the same terms and conditions.

(iii) The applicants No. 1, 2 and 3 shall give an undertaking before the Tribunal to the effect that they shall purchase immovable property worth the amount which is released to applicants No. 1, 2 and 3 within three months from the date of the payment of the amount to applicants No. 1, 2 and 3 as aforesaid and shall produce the copies of necessary documents for the purchase of immovable property before the Tribunal. The amount shall be released by the Tribunal on filing of the above said undertaking by original applicants No. 1, 2 and 3.

(iv) Whatever amount if any accrued to applicants No. 1, 2 and 3 by way of interest and if payable to applicants No. 1, 2 and 3, then the said amount shall be released and paid to applicants No. 1, 2 and 3 respectively.

4. With the above said order, this Revision Application is allowed to the above extent. Rule made absolute. D.S. permitted.

(J.R. Vora, J.)

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